

K.S.A. 44-534a confers upon the Appeals Board the authority to review preliminary findings, which addresses the above enumerated issue. In cases involving subsequent, intervening injury, the issue of which accident gave rise to the claimant's present need for medical treatment, or whether claimant, in fact, sustained a subsequent, intervening injury

is one which encompasses both nature and extent of disability as well as accident arising out of and in the course of employment. In such circumstances, the Appeals Board has found the issue to be jurisdictional, which permits review at this stage of the proceedings.

Based upon the evidence presented, and for purposes of preliminary hearing, the Appeals Board finds that it is more probably true than not true that claimant's ongoing need for medical treatment and, in particular, his treatment since April 13, 1994, which is the period in controversy, is the result of his work-related accident on November 23, 1993. In so finding, the Appeals Board also finds from the testimony of the claimant, together with the medical records and reports in evidence, that claimant's need for medical treatment is not the result of any subsequent, intervening injury. It is the finding of the Appeals Board that claimant's present condition does stem from the admitted November 23, 1993 accident and, therefore, did arise out of and in the course of the claimant's employment with the respondent.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the March 16, 1995 Order by Administrative Law Judge Nelsonna Potts Barnes, should be and is hereby affirmed in all respects.

IT IS SO ORDERED.

Dated this ____ day of June 1995.

BOARD MEMBER _____

BOARD MEMBER _____

BOARD MEMBER _____

c: Frances A. Hartman, Wichita, KS
William L. Townsley III, Wichita, Ks
Nelsonna Potts Barnes, Administrative Law Judge
George Gomez, Director